

Craig D. Mills
39 Hunting Lane
Sherborn, MA 01770

March 24, 2021

BY EMAIL

Town of Sherborn
Zoning Board of Appeals
19 Washington Street
Sherborn, MA 01770
Attn: Richard Novak, Chair

Re: 40B applications (the "Applications") submitted by Igor Lybarsky (the "Applicant")-41 N. Main Street/31 Hunting Lane

Ladies and Gentlemen:

As you know, we have submitted letters dated October 17, 2020 and November 15, 2020, which addressed, among other things, the site control issue, and we reiterate the arguments contained therein.

As you know, the Town of Sherborn holds a 61B lien on the vast majority of Parcel 3C and all of Parcel 3B (collectively, the "61B parcels"), which represents a substantial encumbrance on the land. Furthermore, the Select Board of the Town of Sherborn at its meeting held on October 22, 2020 voted to commence the process under Section 9 of Chapter 61B to exercise its rights under the right of first refusal provided to the Town under Chapter 61B.

Section 9 of Chapter 61B lays out a very clear process by which a Town should exercise its rights. It provides that the Town (or its assignee) should obtain an appraisal and provide it to the applicant and, if the parties are unable to agree on the price based on the appraisal, then the landowner should obtain an appraisal. If the parties are still unable to agree on the price after considering the information provided by both appraisals, then the parties must jointly agree on a third appraiser whose determination of price is definitive.

At this time, as you know, by letter dated March 3, 2021, the Select Board has delivered to the Applicant an appraisal pursuant to the Chapter 61B statute. This is as clear an indication as is possible that the Select Board intends to follow the process under the 61B statute and put itself in a position, if it shall so elect, to exercise its statutory right of first refusal.

Since the issuance by MassHousing of the PEL Letters on April 30, 2020, the Town has not only voted to commence the 61B process but it has hired and paid for an appraiser, obtained the appraisal

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and now delivered it to the Applicant. It is very hard not to conclude that if MassHousing were in possession of these facts, it would not have issued project eligibility letters and instead concluded that the Applicant failed to meet the requirements for project eligibility on the basis that it did not have "site control".

We believe that in light of these facts and the Town's clear intent to move forward with the 61B process, it is unnecessary and wasteful of the Town's resources for the ZBA hearings to continue. In fact, we once again urge the Zoning Board of Appeals to reject both Applications on the basis that the 61B parcels are critical to the development of both projects and the Applicant does not have site control by reason of the 61B lien and the Town's incipient exercise of its right of first refusal.

Again, as with our previous letters, although I have signed this letter individually, all of the abutters and other concerned residents cited in the previous letters fully support the contents of this letter.

Thank you for your consideration of these important issues.

Sincerely,



Craig D. Mills

cc: Zoning Board
Select Board
Town Administrator
Town Planner
Town Counsel
Kathleen O'Donnell, Esq.